

other party may take an appeal by filing a notice of appeal within 120 days after the Court's decision is entered. Code Section 7483. For other requirements governing such an appeal, see rules 13 and 14 of the Federal Rules of Appellate Procedure. A suggested form of the notice of appeal is contained in Appendix I. See Code Section 7482(a).

**(b) Dispositive Orders:** (1) *Entry and Appeal:* A dispositive order, including (A) an order granting or denying a motion to restrain assessment or collection, made pursuant to Code Section 6213(a), and (B) an order granting or denying a motion for review of a proposed sale of seized property, made pursuant to Code Section 6863(b)(3)(C), shall be entered upon the record of the Court and served forthwith by the Clerk. Such an order shall be treated as a decision of the Court for purposes of appeal.

(2) *Stay of Proceedings:* Unless so ordered, proceedings in the Tax Court shall not be stayed by virtue of any order entered under Code Section 6213(a) that is or may be the subject of an appeal pursuant to Code Section 7482(a)(3) or any order entered under Code Section 6863(b)(3)(C) that is or may be the subject of an appeal.

**(c) Venue:** For the circuit of the Court of Appeals to which the appeal is to be taken, see Code Section 7482(b).

**(d) Interlocutory Orders:** For provisions governing appeals from interlocutory orders, see Rule 193.

#### REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in par. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

### Rule 191. Preparation of the Record on Appeal

The Clerk will prepare the record on appeal and forward it to the Clerk of the Court of Appeals pursuant to the notice of appeal filed with the Court, in accordance with Rules 10 and 11 of the Federal Rules of Appellate Procedure. In addition, at the time the Clerk forwards the record on appeal to the Clerk of the Court of Appeals, the Clerk shall forward to each of the parties a copy of the index to the record on appeal.

#### REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

### Rule 192. Bond to Stay Assessment and Collection

The filing of a notice of appeal does not stay assessment or collection of a deficiency redetermined by the Court unless, on or before the filing of the notice of appeal, a bond is filed with the Court in accordance with Code Section 7485.

### Rule 193. Appeals From Interlocutory Orders

**(a) General:** For the purpose of seeking the review of any order of the Tax Court which is not otherwise immediately appealable, a party may request the Court to include, or the Court on its own motion may include, a statement in such order that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an

immediate appeal from that order may materially advance the ultimate termination of the litigation. Any such request by a party shall be made by motion which shall set forth with particularity the grounds therefor and note whether there is any objection thereto. Any order by a Judge or Special Trial Judge of the Tax Court which includes the above statement shall be entered upon the records of the Court and served forthwith by the Clerk. See Code Section 7482(a)(2). For appeals from interlocutory orders generally, see rules 5 and 14 of the Federal Rules of Appellate Procedure.

**(b) Venue:** For the circuit of the Court of Appeals to which an appeal from an interlocutory order may be taken, see Code Section 7482(a)(2)(B) and 7482(b).

**(c) Stay of Proceedings:** Unless so ordered, proceedings in the Tax Court shall not be stayed by virtue of any interlocutory order that is or may be the subject of an appeal. See Code Section 7482(a)(2)(A).

#### REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in par. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

## TITLE XX.—PRACTICE BEFORE THE COURT

### Rule 200. Admission to Practice and Periodic Registration Fee

**(a) Qualifications:** (1) *General:* An applicant for admission to practice before the Court must establish to the satisfaction of the Court that the applicant is of good moral character and repute and is possessed of the requisite qualifications to represent others in the preparation and trial of cases. In addition, the applicant must satisfy the further requirements of this Rule 200.

(2) *Attorneys:* An attorney at law may be admitted to practice upon filing with the Admissions Clerk a completed application accompanied by a fee to be established by the Court, see Appendix III, and a current certificate from the Clerk of the appropriate court, showing that the applicant has been admitted to practice before and is a member in good standing of the Bar of the Supreme Court of the United States, or of the highest or appropriate court of any State or of the District of Columbia, or any commonwealth, territory, or possession of the United States. A current court certificate is one executed within 90 calendar days preceding the date of the filing of the application.

(3) *Other Applicants:* An applicant, not an attorney at law, must file with the Admissions Clerk a completed application accompanied by a fee to be established by the Court. See Appendix III. In addition, such an applicant, as a condition of being admitted to practice, must give evidence of the applicant's qualifications satisfactory to the Court by means of a written examination given by the Court, and the Court may require such person, in addition, to give similar evidence by means of an oral examination.

**(b) Application:** An application for admission to practice before the Court must be on the form provided by the Court. Application forms and other necessary information will be furnished

upon request addressed to the Admissions Clerk, United States Tax Court, 400 Second St., N.W., Washington, D.C. 20217.

**(c) Sponsorship:** An applicant for admission by examination must be sponsored by at least two persons theretofore admitted to practice before this Court, and each sponsor must send a letter of recommendation directly to the Admissions Clerk of the Court, where it will be treated as a confidential communication. The sponsor shall send this letter promptly after the applicant has been notified that he or she has passed the written examination required by paragraph (d). The sponsor shall state fully and frankly the extent of the sponsor's acquaintance with the applicant, the sponsor's opinion of the moral character and repute of the applicant, and the sponsor's opinion of the qualifications of the applicant to practice before this Court. The Court may in its discretion accept such an applicant with less than two such sponsors.

**(d) Written Examinations:** Written examinations, for applicants other than attorneys at law, will be held no less often than every two years. By public announcement at least six months prior to the date of the examination, the Court will announce the date and time of such examination. The Court will notify each applicant, whose application is in order, of the time and place at which the applicant is to be present for examination, and the applicant must present that notice to the examiner as authority for taking such an examination.

**(e) Checks and Money Orders:** Where the application fee is paid by check or money order, it shall be made payable to the order of the "Clerk, United States Tax Court".

**(f) Admission:** Upon approval of an application for admission and satisfaction of the other applicable requirements, an applicant will be admitted to practice before the Court upon taking and subscribing the oath or affirmation prescribed by the Court. Such an applicant shall thereupon be entitled to a certificate of admission.

**(g) Change of Address:** Each person admitted to practice before the Court shall promptly notify the Admissions Clerk of any change in office address for mailing purposes. See also Rule 21(b)(4) regarding the filing of a separate notice for each docket number in which such person has entered an appearance.

**(h) Corporations and Firms Not Eligible:** Corporations and firms will not be admitted to practice or recognized before the Court.

**(i) Periodic Registration Fee:** (1) Each practitioner admitted to practice before the Court shall pay a periodic registration fee. The frequency and amount of such fee shall be determined by the Court, except that such amount shall not exceed \$30 per calendar year. The Clerk shall maintain an Ineligible List containing the names of all practitioners failing to comply with the provisions of this Rule. No practitioner shall be permitted to commence a case in the Court or enter an appearance in a pending case while on the Ineligible List. The name of any practitioner appearing on the Ineligible List shall not be removed from the List until the currently due registration fee has been paid and all arrearages have been made current. The periodic registra-

tion fee must be paid by all persons admitted to practice before the Court, whether or not engaged in private practice. As to forms of payment, see Rule 11.

(2) The fees described in Rule 200(i)(1) shall be used by the Court to employ independent counsel to pursue disciplinary matters.

#### Rule 201. Conduct of Practice Before the Court

**(a) General:** Practitioners before the Court shall carry on their practice in accordance with the letter and spirit of the Model Rules of Professional Conduct of the American Bar Association.

**(b) Statement of Employment:** The Court may require any practitioner before it to furnish a statement, under oath, of the terms and circumstances of his or her employment in any case.

#### Rule 202. Disqualification, Suspension, or Disbarment

**(a) General:** The Court may deny admission to its Bar to, or suspend, or disbar, any person who in its judgment does not possess the requisite qualifications to represent others, or who is lacking in character, integrity, or proper professional conduct. Upon the conviction of any practitioner admitted to practice before this Court for a criminal violation of any provision of the Internal Revenue Code or for any crime involving moral turpitude, or where any practitioner has been suspended or disbarred from the practice of his or her profession in any State or the District of Columbia, or any commonwealth, territory, or possession of the United States, the Court may, in the exercise of its discretion, forthwith suspend such practitioner from the Bar of this Court until further order of Court; but otherwise no person shall be suspended for more than 60 days or disbarred until such person has been afforded an opportunity to be heard. A Judge of the Court may immediately suspend any person for not more than 60 days for contempt or misconduct during the course of any trial or hearing.

**(b) Disciplinary Proceedings:** (1) *Referral to Counsel:* When misconduct or allegations of misconduct which, if substantiated, would warrant discipline of a practitioner shall come to the attention of the Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules (see paragraph (a) of this Rule), the Court, in its discretion, may refer the matter to counsel to the Court (appointed pursuant to the provisions of paragraph (d) of this Rule) for investigation and the prosecution of a formal disciplinary proceeding or the formation of such other recommendation as may be appropriate.

(2) *Investigation and Recommendation:* If counsel concludes after investigation and review that a formal disciplinary proceeding should not be initiated against the practitioner because sufficient evidence is not present, or because there is pending another proceeding against the practitioner, the disposition of which in the judgment of counsel should be awaited before further action by this Court is considered, or for any other valid reason, then counsel shall file with the Court a recommendation for disposition of the

matter, whether by dismissal, admonition, deferral, or otherwise, setting forth the reasons therefor.

(3) *Initiation of Proceedings:* To initiate formal disciplinary proceedings, the Court shall enter an order (or, where counsel is appointed, such counsel shall obtain an order of the Court upon a showing of probable cause) requiring the practitioner to show cause within 30 days after service of that order upon that practitioner, why the practitioner should not be disciplined.

(4) *Hearing:* Upon the practitioner's answer to the order to show cause, if any issue of fact is raised or the practitioner wishes to be heard in mitigation, then this Court shall set the matter for prompt hearing before one or more Judges of this Court. However, if the disciplinary proceeding is predicated upon the complaint of a Judge of this Court, then the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge.

(5) *Right to Counsel:* In all proceedings conducted under the provisions of this Rule, the practitioner shall have the right to be represented by counsel.

(c) **Reinstatement:** (1) *After Disbarment or Suspension:* A practitioner suspended for 60 days or less shall be automatically reinstated at the end of the period of suspension. A practitioner suspended for more than 60 days or disbarred may not resume practice until reinstated by order of this Court.

(2) *Hearing on Application:* A petition for reinstatement by a disbarred or suspended practitioner under this Rule shall be filed with the Court. Upon receipt of the petition, the Court may promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more Judges of this Court. However, if the disciplinary proceeding was predicated upon the complaint of a Judge of this Court, then the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge. The Judge or Judges assigned to the matter shall, as promptly as the Court's business shall permit, schedule a hearing at which the practitioner shall have the burden of demonstrating by clear and convincing evidence that the practitioner has the moral qualifications, competency and learning in the law required for admission to practice before this Court and that the practitioner's resumption of such practice will not be detrimental to the integrity and standing of the Bar or to the administration of justice, or subversive of the public interest.

(3) *Successive Petitions:* No petition for reinstatement under this Rule shall be filed within 1 year following an adverse decision upon a petition for reinstatement filed by or on behalf of the same person.

(d) **Presentation to the Court:** When counsel is to be appointed pursuant to this Rule to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a practitioner, this Court shall appoint as counsel to the Court a member of the Bar of this Court who is a resident of or who practices in the same Federal judicial circuit (see 28 U.S.C. Section 41), except the Federal Circuit, as the Federal judicial cir-

cuit which includes the practitioner's place of residence or practice. The practitioner may move to disqualify a person so appointed for cause, for example, if such person is or has been engaged as an adversary of the practitioner in any matter. Counsel, once appointed, may not resign unless permission to do so is given by the Court.

(e) **Jurisdiction:** Nothing contained in this Rule shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Code Section 7456.

## TITLE XXI.—DECLARATORY JUDGMENTS

### Rule 210. General

(a) **Applicability:** The Rules of this Title XXI set forth the special provisions which apply to declaratory judgment actions, relating to the qualification of retirement plans, the status of certain governmental obligations, and the initial or continuing qualification of certain exempt organizations or the initial or continuing classification of certain private foundations. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for declaratory judgment.

(b) **Definitions:** As used in the Rules in this Title—

(1) "Retirement plan" has the meaning provided by Code Section 7476(c).

(2) "Governmental obligation" means an obligation the status of which under Code Section 103(a) is in issue.

(3) "Exempt organization" is an organization described in Code Section 501(c)(3) which is exempt from tax under Code Section 501(a) or is an organization described in Code Section 170(c)(2).

(4) "Private foundation" is an organization described in Code Section 509(a).

(5) "Private operating foundation" is an organization described in Code Section 4942(j)(3).

(6) An "organization" is any organization whose qualification as an exempt organization, or whose classification as a private foundation or a private operating foundation, is in issue.

(7) A "determination" means—

(A) A determination with respect to the initial or continuing qualification of a retirement plan;

(B) A determination as to whether prospective governmental obligations are described in Code Section 103(a); or

(C) A determination with respect to the initial or continuing qualification of an organization as an exempt organization, or with respect to the initial or continuing classification of an organization as a private foundation or a private operating foundation.

(8) A "revocation" is a determination that a retirement plan is no longer qualified, or that an organization, previously qualified or classified as an exempt organization or as a private foundation or private operating foundation, is